IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP NO.17767 of 2006

DATE OF DECISION: November 10, 2006

Harbans Singh

….Petitioner

VERSUS

Uttri Haryana Bijli Vitran Nigam Limited and another

…..Respondents

CORAM:- HON'BLE MR. JUSTICE VINEY MITTAL
HON'BLE MR. JUSTICE H.S. BHALLA

PRESENT: Shri Chander Shekhar, Advocate for the petitioner.

Viney Mittal,J.(Oral).

Notice of motion to the respondents.

On the asking of Court, Shri Narender Hooda, Advocate accepts notice on behalf of the respondents.

Copies of the writ petition have been supplied to the learned counsel for the respondents.

The petitioner has challenged the communication dated July 12, 2006 issued by the Sub Divisional Officer, Operation Sub Division, UHBVNL, Kesri, respondent No.2, whereby a demand of Rs.60,000/- has been raised against the petitioner on the allegation that the petitioner was guilty of theft of electricity.

At the outset, the learned counsel for the petitioner very fairly informs the Court that although an appeal is competent under Section 127 of the Indian Electricity Act, 2003 but as of today, no

Appellate Authority has been constituted by Nigam, respondent No.1 and as such the remedy of appeal cannot be availed of by the petitioner.

Shri Narender Hooda, the learned counsel appearing for the respondents also concedes the fact that as of today, no Appellate Authority has been constituted under the Act. However, Shri Hooda informs that an Appellate Authority is likely to be constituted very shortly.

In view of the aforesaid factual position and also keeping in view the fact that the order Annexure P.1 is appealable and that the constitution of the Appellate Authority is likely to take some time, we dispose of the present petition with a liberty to the petitioner to file an appeal within four weeks from the date of the notification of the constitution of the said Appellate Authority.

If any appeal is filed within the aforesaid period by the petitioner, then the Appellate Authority shall adjudicate the aforesaid appeal in accordance with law, without rejecting the same on the ground of delay.

Till the appeal is filed by the petitioner, as aforesaid, no coercive process shall be initiated against the petitioner for recovery of the dues arising out of Annexure P.1. However, we make it clear that if no appeal is filed by the petitioner in terms of Section 127 of the Act within the aforesaid period, then the protection granted to the petitioner shall automatically lapse and thereafter the respondents

would be at liberty to initiate the proceedings against the petitioner, in accordance with law.

A copy of the order be given dasti on payment of usual charges.

(Viney Mittal)
Judge

November 10, 2006
KD

(H.S. Bhalla)
Judge